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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,116	07/21/2003	Ray Blotteaux	TJK/400	6127
27717	7590	07/25/2005	EXAMINER	
SEYFARTH SHAW 55 EAST MONROE STREET SUITE 4200 CHICAGO, IL 60603-5803			GRAHAM, MARK S	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/624,116

Applicant(s)

BLOTTEAUX, RAY

Examiner

Mark S. Graham

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-43 is/are pending in the application.
- 4a) Of the above claim(s) 14-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 14-43 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 1-30 have been renumbered 14-43.

The claims filed with the amendment of 6/10/05 contain subject matter not entitled to the original filing date of the application. Note for example the "non-structural" limitation of claims 14 and 23, and the claim of varied thickness between the wall and shell components in claims 14 and 17. Therefore the new application qualifies only as a CIP application. Applicant is required to take all steps appropriate with regard to a CIP application.

Newly submitted claims 14-22 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The originally claimed embodiment was only directed towards that with inner and outer layers of equal thickness. Claims 14-22 are directed at an embodiment of differing wall thicknesses.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 14-22 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 23-32 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not understood how a fiber reinforced matrix material as the shell layer may be “non-structural”. Such a layer will inherently provide some structural support to the stick.

Claims 23-32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The originally filed disclosure does not provide for a non-structural outer shell layer.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 33 and 34 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Burger.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burger.

Regarding claims 35-37, Burger does not disclose the exact thickness of his layer. However, absent a showing of unexpected results the particularly claimed thicknesses would have been obvious to the ordinarily skilled artisan depending on the strength and weight desired in the shaft.

Claims 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conroy in view of Cabales et al. '932 (Cabales).

Conroy discloses the claimed device with the exception of the intermediate viscoelastic layer. (Any one of Conroy's inner layers may be considered the single inner layer with the outer layer adjacent to it the single outer layer.) However as disclosed by Cabales, Col. 7, first full paragraph it is known in the art to use such a construction. It would have been obvious to one of ordinary skill in the art to have used such a layer between Conroy's inner and outer layers for the reasons espoused by Cabales.

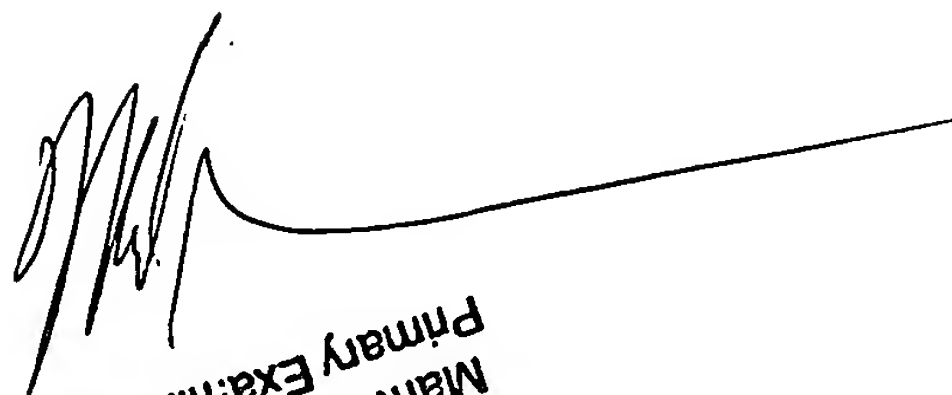
Concerning claim 40, Conroy in view of Cabales obviates the claimed device with the exception of the particularly claimed type of rubber. However, the examiner takes official notice that rubbers such as those claimed are commonly known. Such a rubber would obviously have been suitable for use as Cabales' rubber.

Regarding claims 41-43, Cabales does not disclose the exact thickness of his layer. However, absent a showing of unexpected results the particularly claimed thicknesses would have been obvious to the ordinarily skilled artisan depending on the strength and weight desired in the shaft.

Applicant's arguments filed 6/10/05 have been fully considered but they are not persuasive for the reasons explained above.

Any inquiry concerning this communication should be directed to Mark S. Graham at
telephone number 571-272-4410.

MSG
7/20/05



Mark S. Graham
Primary Examiner